

EXHIBIT 4

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

- - -

KELLY GRADY, : NOVEMBER TERM, 2015
Plaintiff :
vs. :
THE HERTZ CORPORATION; :
HERTZ RENT-A-CAR PHILADELPHIA :
INTL AIRPORT, :
Defendants : NO. 3380

- - -

Thursday, September 14, 2017
Afternoon Session

- - -

Courtroom 475
City Hall
Philadelphia, Pennsylvania

- - -

BEFORE: THE HONORABLE PAULA A. PATRICK, J., and a
Jury

- - -

Danielle O'Connor, RPR, CRR 215-683-8023

1 APPEARANCES:

2 FRANCIS ALEXANDER, LLC
 3 BY: FRANCIS MALOFIY, ESQUIRE
 4 ALFRED JOSEPH FLUEHR, ESQUIRE
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 7 Counsel for Plaintiff

8 EDELSTEIN LAW, LLP
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 12 Philadelphia, PA 19102
 13 Counsel for the Defendants

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1 - - -

2 (The following occurred in open court
 3 outside the presence of the jury:)

4 - - -

5 THE COURT: Is there anything we need
 6 to discuss before the jury comes in?

7 MR. MALOFIY: No, Your Honor.

8 THE COURT: Are you sure?

9 MR. MALOFIY: Yes, Your Honor.

10 - - -

11 (Whereupon, the jury entered the
 12 courtroom at 1:22 p.m.)

13 - - -

14 THE COURT: Welcome back, ladies and
 15 gentlemen. We'll proceed now with the
 16 cross-examination of the Hertz representative.

17 MR. MALOFIY: Thank you.

18 May I proceed, Your Honor?

19 THE COURT: Yes, go ahead.

20 MR. MALOFIY: Thank you.

21 - - -

22 CROSS-EXAMINATION

23 - - -

24 BY MR. MALOFIY:

25 Q. A few questions. And thank you for being

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3

1 INDEX2 WITNESS3 DR CR RDR RCR

4 Julie Wilkerson -- 4 55 56

5 John Cocklin 57 64 -- --
 6 (Voir Dire)

7 John Cocklin 68 97 -- --

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5

1 here. I know you were here the whole time.

2 My understanding is you flew in from
 3 Florida. Are you from Oklahoma or Florida? I'm
 4 confused.

5 A. I'm from Oklahoma. I do work down in Florida.

6 Q. Okay. I see. A few things.

7 You would agree as the corporate
 8 designee here on behalf of the Hertz Corporation
 9 that prior to a report to the police -- and if a
 10 report is made, you would agree with me that it must
 11 be true?

12 A. Correct, yes.

13 Q. And you'd agree with me that it must be
 14 accurate?

15 A. Yes.

16 Q. And you'd agree with me that it also must be
 17 correct?

18 A. Yes.

19 Q. And would you also agree with me that if
 20 there's omissions in the facts, that there's a duty
 21 that Hertz corrects those omissions?

22 A. Yes.

23 Q. Did Hertz do that in this case?

24 MR. EDELSTEIN: Objection, Your Honor.

25 THE COURT: Overruled. She can

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1 answer.

2 THE WITNESS: I'm not sure what
3 omissions you're talking about.

4 BY MR. MALOFIY:

5 **Q. Do you believe there were any omissions in the**
6 **information provided to the police, yes or no?**

7 **A. At what time?**

8 **Q. At any time.**

9 **A. We gave them what we had at -- what**
10 **information we had. We handed the theft report off**
11 **to the police, the information that we had, and then**
12 **that was given to the police. And what they did**
13 **from there is up to them.**

14 **Q. Do you believe if there's -- I think you**
15 **testified if there's omitted facts, they should be**
16 **corrected, correct?**

17 **A. Yes.**

18 **Q. Eventually did Hertz become aware of**
19 **additional facts in regards to Ms. Grady's rental**
20 **that should have been provided to the police?**

21 **A. Which facts?**

22 **Q. Well, the payment of 2400.**

23 **A. That was actually in the theft package. The**
24 **police had that information.**

25 **Q. The police had that information?**

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1 **A. Yes, it's in the billing page of the theft**
2 **package.**

3 **Q. What page is that, ma'am?**

4 **A. We went over it this morning.**

5 MR. MALOFIY: Court's indulgence.

6 (Pause.)

7 MR. MALOFIY: I need the date on this.

8 BY MR. MALOFIY:

9 **Q. Ma'am, do you know when this was completed,**
10 **this document that you had reviewed with counsel?**

11 **A. It's on there.**

12 **Q. Okay.**

13 **A. July the 12th, 2013. It says, "process date."**

14 MR. EDELSTEIN: You're writing on my
15 document.

16 MR. MALOFIY: I don't mean to do that.
17 That's why...

18 MR. EDELSTEIN: Okay.

19 BY MR. MALOFIY:

20 **Q. I want to go to something, ma'am.**

21 This was July the 12th you said it was
22 created?

23 **A. July the 12th, 2013, I believe is when it said**
24 **the rental was closed. We had to close the rental**
25 **out --**

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1 **Q. Yes.**

2 **A. -- in order to report it stolen.**

3 **Q. I understand. If I could make sure? Let me**
4 **confirm that, ma'am.**

5 MR. MALOFIY: Can I approach the
6 witness?

7 THE COURT: Ginelle, can you give that
8 to the witness?

9 THE WITNESS: So it says "date, time
10 posted, July 12th, 2013, at 12:34 p.m."

11 BY MR. MALOFIY:

12 **Q. Okay.**

13 **A. We closed it back to May 31st, because that's**
14 **all the authorization we got at time of rent. And**
15 **it says right there, "bill to auth plus 15 percent**
16 **Vehicle Control, Alicia Brown."**

17 **Q. I see.**

18 MR. MALOFIY: Can I have that document
19 back?

20 BY MR. MALOFIY:

21 **Q. Can we put up P-6? That document was created**
22 **on 7/12, correct?**

23 **A. What?**

24 **Q. 7/12, that was your testimony, correct?**

25 **A. When the rental was closed, correct.**

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1 **Q. And when the payment went down, I'd like to**
2 **blow this up for the benefit of the jury and also**
3 **for Ms. Wilkerson -- Mrs. Wilkerson or Ms.?**

4 **A. Mrs. Wilkerson.**

5 **Q. Mrs. Wilkerson, my apologies.**

6 The payment was put through and Hertz
7 was paid 2445 on 7/15, correct?

8 **A. Right. So we closed it and it went through**
9 **the process to force charge through the bank.**

10 **Q. Isn't it a fact that the car was paid?**

11 **A. No.**

12 **Q. It wasn't?**

13 **A. It wasn't paid in full.**

14 **Q. Well, I'm sorry --**

15 MR. MALOFIY: Objection.

16 MR. EDELSTEIN: Objection to what?

17 THE COURT: Okay. But you asked the
18 question, so now she answered it.

19 BY MR. MALOFIY:

20 **Q. The car -- let's be clear. Hertz received**
21 **1805, correct?**

22 **A. At time of rent we received 1805**
23 **authorization.**

24 **Q. Did Hertz receive and put in their bank**
25 **account \$1805, yes or no?**

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1 **A. Yes. But then we force charged 2,444.94**
 2 **cents, but the car wasn't actually picked up**
 3 **until -- we didn't recover our car until September**
 4 **11th, 2013.**

5 **Q.** That's a different issue, when you recovered
 6 your car. We can move to that and I will. But
 7 let's go to the payment.

8 You don't dispute that you received --
 9 Hertz put in their bank account \$1805, correct?

10 **A. Correct.**

11 **Q.** And you don't dispute that Hertz put in Hertz'
 12 bank account \$2,444.94, correct?

13 **A. Correct.**

14 **Q.** And you don't dispute that when you produce
 15 this theft package and the report to the police that
 16 was completed on 7/12, correct?

17 **A. Correct, but --**

18 **Q.** Hold on.

19 **A. But it wasn't paid in full.**

20 **Q.** And this payment was 7/15/2013, days later,
 21 correct?

22 **A. It has to go through the process.**

23 **Q.** Is that correct, ma'am?

24 **A. Yes.**

25 **Q.** Yes, it is correct.

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1 **A. But it still wasn't paid in full.**

2 **Q.** I think what we're going at is because you
 3 didn't receive it until September --

4 THE COURT: Counsel, do you want to go
 5 into that? Because I made a ruling on that
 6 earlier.

7 MR. MALOFIY: Fair enough, Your Honor.

8 THE COURT: It's up to you if you want
 9 to go into it.

10 BY MR. MALOFIY:

11 **Q.** Let's be clear. OnStar, correct, was called?

12 **A. They were called, but not by Hertz.**

13 **Q.** When OnStar was called, did Hertz know where
 14 their vehicle was?

15 **A. Not at that time.**

16 **Q.** Oh, Hertz --

17 **A. The police had to notify us.**

18 **Q.** Well, Hertz actually spoke to the police on
 19 7/22, correct?

20 **A. Correct.**

21 **Q.** You don't dispute that Hertz representatives
 22 spoke to the police in regards to Ms. Grady's
 23 rental, correct?

24 **A. And told her she wasn't authorized to keep the**
 25 **car.**

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1 **Q.** Hold on a second. They also told her she did
 2 not steal the car, correct?

3 **A. That's what they said.**

4 **Q.** Are you disputing what they said, Trooper
 5 Kemmerling?

6 **A. No, no.**

7 **Q.** So you accept the representation from Trooper
 8 Kemmerling and the state police report that said
 9 Hertz had said the car was not stolen, correct?

10 **A. Correct. But he let -- he did not let her**
 11 **take our car and our asset. And Trooper Kemmerling**
 12 **also told her she could be -- Philadelphia PD might**
 13 **go after her.**

14 **Q.** Well, he said "might," and there's dispute as
 15 to that and that's for the jury to decide.

16 **A. Okay.**

17 **Q.** Let me move to something else.

18 You admit and you accept the
 19 representation that Hertz said the car was not
 20 stolen, correct, on that day? On 7/22, when a Hertz
 21 representative was contacted, Hertz said the car was
 22 not stolen?

23 **A. Someone at Hertz said that, yes.**

24 **Q.** Who was that?

25 **A. I have no idea.**

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1 **Q.** Well, if there was a call and there was a
 2 situation and someone called the number, they would
 3 have called up and it would have got directed right
 4 to you, right?

5 **A. That's correct, but they weren't directed**
 6 **right to me.**

7 **Q.** And was it you who said the car was not stolen
 8 or was it someone else?

9 **A. It was not me.**

10 **Q.** Well, where are the notes to indicate who said
 11 that, ma'am?

12 **A. There are no notes because we don't know who**
 13 **said that.**

14 **Q.** I'm sorry?

15 **A. I don't know who said that.**

16 **Q.** Did you ask?

17 **A. Ask who?**

18 **Q.** Well, ask anyone at Hertz who said that.

19 **A. No.**

20 **Q.** Did you do that?

21 **A. No.**

22 **Q.** You could have done that, right?

23 **A. I could have.**

24 **Q.** You could have got an e-mail, put a global
 25 message out to everyone in the corporate global --

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1 Hertz corporate global and said, I need to know who
 2 said that, that is a serious matter, I have to
 3 testify in court under oath; you could have done
 4 that, right?
 5 **A. Well, we didn't actually have our car back at**
 6 **that time.**
 7 **Q.** No, no. I'm asking before you took the stand
 8 today, before you testified to this jury, you could
 9 have sent an e-mail to everyone at Hertz saying, I
 10 need this information, who spoke to the police
 11 officers on this date and said Ms. Grady was
 12 authorized, correct?
 13 **A. Someone at Hertz could have said that, yes.**
 14 **Q.** But you didn't do that as you took the stand
 15 here today, correct?
 16 **A. No.**
 17 **Q.** And you don't have any notes in your system to
 18 indicate -- you don't have any notes in your system
 19 that records that phone call where the Hertz
 20 representative said it, right?
 21 **A. Well, first of all, they don't document what**
 22 **Hertz representative they spoke to in the notes at**
 23 **the police, nor do they say what phone call they**
 24 **called. So it's a little difficult for me to**
 25 **understand who Officer Kemmerling called and who he**
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1 **exactly spoke to. Usually, we would get that**
 2 **information if they spoke to us.**
 3 **Q.** But Trooper Kemmerling testified he spoke to
 4 Hertz, he called the number, was routed to the 800,
 5 gave the information on the contract and that would
 6 have gone, you said, to I believe it was Oklahoma
 7 City Vehicle Control, correct?
 8 **A. Correct.**
 9 **Q.** That's where it should have gone, correct?
 10 **A. Where it should have gone.**
 11 **Q.** And if it should have gone in the right place
 12 and things happened the right way, they should have
 13 filed procedure and that phone call should have been
 14 documented in the notes, correct?
 15 **A. Correct.**
 16 **Q.** And it wasn't, correct?
 17 **A. But Officer Kemmerling didn't say what phone**
 18 **number he called.**
 19 **Q.** And it wasn't documented in the notes,
 20 correct?
 21 **A. Correct.**
 22 **Q.** Thank you. Now, let me get to another point.
 23 Ms. Grady brought her phone record in this case,
 24 TD -- excuse me -- Bank record, correct?
 25 **A. Yes.**

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1 **Q.** Are you familiar with bank statements?
 2 **A. Yes.**
 3 **Q.** You are. Do you work with them?
 4 **A. No, I don't work with them.**
 5 **Q.** You're familiar with them?
 6 **A. Yes.**
 7 **Q.** Have you seen them before?
 8 **A. Yes.**
 9 **Q.** Now, does Hertz have a bank account?
 10 **A. Yes.**
 11 **Q.** It does. Who does it bank with?
 12 **A. I can't give you the exact name.**
 13 **Q.** Well, you could have done an investigation and
 14 looked at Hertz' bank statements to determine and
 15 confirm the 1805 and the \$2445, correct?
 16 **A. It's actually on the document we already**
 17 **presented to you this morning.**
 18 **Q.** The one before the charges went through,
 19 correct?
 20 **A. The 1805, when she rented, and then when we**
 21 **closed out the contract on July 12th, the force**
 22 **charge is the two charges.**
 23 **Q.** I understand. We'll get to the force charge
 24 in a minute. You could have brought your bank
 25 records here today. You're here as a fact witness
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1 for Hertz. You're here as a corporate designee to
 2 bind the corporation; do you understand that?
 3 **A. Yes.**
 4 **Q.** And you're here and what you say binds the
 5 corporation to Hertz.
 6 Did Hertz bring any corporate bank
 7 statements here today to go over and look at the
 8 bank's statement to determine what was paid or what
 9 was not?
 10 **A. Well --**
 11 **Q.** Yes, it did or no, it didn't, ma'am, and then
 12 you can explain.
 13 **A. It's in the theft package what was billed.**
 14 **The 1805 and the 2444 are actually on the closed --**
 15 **Q.** I'm sorry. Maybe I'm not clear. My question
 16 was a little different.
 17 Did you bring the bank records to this
 18 court here today, yes or no?
 19 **A. No, we have securities. I can't just pop up a**
 20 **bank record.**
 21 **Q.** We asked for it in discovery I'll represent as
 22 an officer of the court.
 23 MR. EDELSTEIN: Objection, Your Honor.
 24 THE COURT: You object to that?
 25 MR. EDELSTEIN: I object to that

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1 editorialization, yes.
 2 THE COURT: All right. It's
 3 sustained.
 4 MR. EDELSTEIN: The jury has heard it,
 5 so it doesn't matter.
 6 BY MR. MALOFIY:
 7 Q. Let me go to Exhibit 13.
 8 MR. MALOFIY: Do you have that, Mr.
 9 Segal?
 10 BY MR. MALOFIY:
 11 Q. Now, do you know who Kenneth Graeber is?
 12 A. **The assistant corporate security at the time.**
 13 Q. Of where?
 14 A. **Hertz, Philadelphia.**
 15 Q. Did you ever speak to him?
 16 A. **Yes.**
 17 Q. You know who he is, right?
 18 A. **Yes.**
 19 Q. Do you know he gave an interview in this case?
 20 A. **Yes.**
 21 Q. Did you review that interview?
 22 A. **Yes.**
 23 Q. It says here, the interview was taken, if I'm
 24 not mistaken, on 7/23/2013. Do you see that?
 25 A. **Yes.**

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1 Q. Now, if you go down here, it says --
 2 MR. MALOFIY: And if you go to the
 3 second page, Mr. Segal, blow this portion up
 4 for the benefit of the jury. Bring that up.
 5 BY MR. MALOFIY:
 6 Q. When he was questioned by the police officer,
 7 Officer Ianoconne took the stand here, the question
 8 was asked of Kenneth Graeber: "How much of a
 9 payment was received from the renter?"
 10 "ANSWER: We received 1805 for the
 11 contracted rental and a deposit."
 12 MR. EDELSTEIN: Judge --
 13 BY MR. MALOFIY:
 14 Q. Do you see --
 15 MR. EDELSTEIN: Just for the record,
 16 although I have no problem with the actual
 17 question, the questions are being asked of --
 18 as to what the actual statement says, not as to
 19 what the officer said when he was in the
 20 courtroom --
 21 THE COURT: Okay.
 22 MR. EDELSTEIN: -- as I understand it.
 23 MR. MALOFIY: That's correct.
 24 MR. EDELSTEIN: Okay.
 25 THE COURT: All right.

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1 BY MR. MALOFIY:
 2 Q. Do you see that?
 3 A. **What was the question?**
 4 Q. It says here in the interview that was
 5 conducted by and between Officer Ianoconne and
 6 Kenneth Graeber, who's the assistant corporate
 7 security manager of the Philadelphia branch at the
 8 time, correct?
 9 A. **Yes.**
 10 Q. And the question was asked of him in his
 11 interview on 7/23/2013: "How much of a payment was
 12 received from the renter, Question."
 13 "ANSWER: We received 1805 for the
 14 contracted rental and a deposit."
 15 Do you see that?
 16 A. **Yes.**
 17 Q. Why wasn't any additional information provided
 18 to Officer Ianoconne?
 19 A. **It was. The whole theft package was given to**
 20 **him.**
 21 Q. The theft package you showed does not have the
 22 payment of 2445, ma'am; isn't that correct?
 23 A. **No, it does.**
 24 Q. It was made on 7/12, ma'am; isn't that true?
 25 A. **Yes, but the interview was 7/23.**

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1 Q. Right, but you don't have the payment --
 2 there's no -- there's no indication that the
 3 additional 2445 was paid by Ms. Grady before a
 4 police interview was taken, correct?
 5 A. **It was in the theft package that Mr. Graeber**
 6 **handed to the detective questioning him.**
 7 Q. What you showed me is as identifying 2445 was
 8 the rate that Ms. Grady was supposed to get; isn't
 9 that correct?
 10 A. **No.**
 11 Q. It's not?
 12 A. **20 --**
 13 Q. Isn't it true that the payment was on 7/15, we
 14 just looked at that on TD Bank records, you didn't
 15 dispute that, ma'am, right?
 16 A. **Right. It was closed out on 7/12 and it went**
 17 **through the cycle as a force charge on 7/15.**
 18 Q. Right. So why didn't -- Officer Ianoconne,
 19 why wasn't he provided with that information in the
 20 interview?
 21 A. **He was provided the theft package.**
 22 Q. The theft package did not identify a payment,
 23 ma'am.
 24 A. **In the theft package, there does have the 1805**
 25 **in the payment. If he had looked at the theft**

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1 **package, it was right there.**

2 **Q.** Let me go to another -- I understand your
3 testimony. But let's go to something else so we can
4 make this clear. Exhibit 3 --

5 MR. EDELSTEIN: Your Honor, let me
6 just object to that editorialization again.
7 It's clear. She testified that the theft
8 package showed it. So whether it's clear to
9 Mr. Malofiy --

10 THE COURT: Objection is sustained.
11 Her testimony is what it is.

12 MR. EDELSTEIN: We're supposed to do
13 this without editorializing.

14 THE COURT: We're supposed to,
15 correct.

16 MR. MALOFIY: Mr. Edelstein has done
17 it quite a bit.

18 THE COURT: You didn't object.

19 MR. MALOFIY: I know I didn't. I was
20 giving him some leeway. I thought he would do
21 the same.

22 MR. EDELSTEIN: I appreciate it, and
23 I'll give you some leeway.

24 BY MR. MALOFIY:

25 **Q.** If we could go to Exhibit 3, paragraph 20.

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1 Let me see it real quick.

2 Did you review interrogatories that
3 were signed under oath in this case, verified
4 answers to interrogatories?

5 **A. No.**

6 **Q.** You didn't. Let me go to Exhibit 3. These
7 were the interrogatories that were propounded upon
8 Hertz. Could we pull that up for the jury?

9 Can you see that, ma'am?

10 **A. Yes.**

11 **Q.** Now, to be clear, these were the
12 interrogatories in this case, these are the answers
13 from Hertz.

14 You didn't have a chance to review
15 these?

16 **A. I did see that. I'm sorry.**

17 **Q.** And it said here on 20: "Describe in detail
18 all payments, including date, time, amount, and
19 payment method Kelly Grady made for the rental of
20 the Chevy Yukon." Do you see that?

21 **A. Yes.**

22 **Q.** And the answer was: "One payment on April
23 17th, 2013, at 1:57 p.m. for 1805 to a Visa card
24 ending in 0583." Do you see that?

25 **A. Yes.**

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1 **Q.** Isn't it true that Hertz also received a
2 payment of 2445 --

3 MR. EDELSTEIN: Objection, Your Honor.
4 There's testimony it was a force charge, not a
5 payment made by Ms. Grady.

6 MR. MALOFIY: I would appreciate if
7 the witness testified.

8 THE COURT: He objected based upon a
9 characterization of the question. You just
10 have to rephrase the question.

11 BY MR. MALOFIY:

12 **Q.** Ma'am, isn't it true that this Answer 20 did
13 not identify all the payments that Hertz had
14 received in regards to Ms. Grady's rental?

15 MR. EDELSTEIN: Just note my
16 objection. That wasn't the question that was
17 asked, Your Honor.

18 THE COURT: Overruled. Go ahead.

19 THE WITNESS: So we received one
20 payment that she authorized of 1805, the other
21 payment of \$2400 and some change was a force
22 charge.

23 BY MR. MALOFIY:

24 **Q.** Let me ask you something about force charge.
25 You received the payment, did you not?

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1 **A. We didn't receive any authorization from TD
2 Bank, so she has up to six months to dispute the
3 charge.**

4 **Q.** You received the payment, ma'am, correct?

5 **A. Yes.**

6 **Q.** You received the payment and did Ms. Grady
7 ever deny that charge?

8 **A. No.**

9 **Q.** And did Ms. Grady ever send you a letter to
10 corporate saying I deny this charge?

11 **A. No.**

12 **Q.** And did you have any evidence whatsoever that
13 she called up and she said no, this charge can't go
14 through?

15 **A. She would dispute the charge with her bank,
16 not with Hertz.**

17 **Q.** I'm asking if she called Hertz and you have
18 any evidence whatsoever in this world to say she
19 ever disputed that charge?

20 **A. She didn't dispute with Hertz. She would have
21 to dispute with her credit card company.**

22 **Q.** And you have nothing in Hertz' file to
23 indicate she disputed this in any way, shape, or
24 form, correct?

25 **A. That's correct.**

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1 **Q.** So, to be clear, you would agree -- you would
 2 agree with me that Hertz received 1805 on 4/27/2013,
 3 correct?
 4 **A. As an authorization, correct.**
 5 **Q.** And she provided you her credit card when she
 6 initially rented the car, correct?
 7 **A. At time of rent.**
 8 **Q.** She did that?
 9 **A. Yes.**
 10 **Q.** Did she ever withdraw her authorization to
 11 you, yes or no?
 12 **A. No.**
 13 **Q.** Have you ever had billing issues or
 14 communications issues as Hertz has had with its bank
 15 or with someone else's bank?
 16 **A. Yes, we have billing issues.**
 17 **Q.** Sometimes there's problems with banks talking
 18 to other people's banks and there's issues, correct?
 19 **A. Correct.**
 20 **Q.** You don't dispute that, that's not unusual,
 21 that there might be a problem with a wire or
 22 communications between the two banking institutions,
 23 correct?
 24 **A. No, not at all.**
 25 **Q.** Did you do any investigation to determine --

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1 I'll withdraw the question.
 2 Let me move forward to this: My
 3 understanding, if I understand your testimony
 4 correctly, is that if someone calls in and the card
 5 isn't -- you call it Block status?
 6 **A. Yes, it's blocked in Pick Up status.**
 7 **Q.** And it would go right to you or someone in
 8 your office, correct?
 9 **A. In the Vehicle Control area.**
 10 **Q.** How many people are in that office?
 11 **A. Seventy.**
 12 **Q.** Seventy people?
 13 **A. Yes.**
 14 **Q.** That's a lot of people handling this. How
 15 many cars does Hertz have?
 16 **A. Currently or in 2013?**
 17 **Q.** Let's go with 2013.
 18 **A. At the time we had approximately 700,000 cars.**
 19 **Q.** 700,000?
 20 **A. Uh-huh, in North America.**
 21 **Q.** And, you know, my understanding, and correct
 22 me if I'm wrong, is that you've worked for Vehicle
 23 Control for over ten years; is that correct?
 24 **A. Yes.**
 25 **Q.** And my understanding also is that you're the

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1 supervisor?
 2 **A. Yes.**
 3 **Q.** And my understanding also, it's actually part
 4 of your job to make sure those overdue vehicle
 5 investigations are done properly, correct?
 6 **A. Yes.**
 7 **Q.** And it's your job to manage a fleet of
 8 \$700,000 cars?
 9 **A. Yes.**
 10 **Q.** And, basically, you regulate all the stealing
 11 off of Hertz' lot?
 12 **A. Well, we handle four different types of**
 13 **thefts.**
 14 **Q.** Well, that's one type -- any type of theft,
 15 you represent the stealing off of Hertz' property?
 16 **A. Yes.**
 17 **Q.** I'm a little confused as to what factual
 18 knowledge you have about this case. I know you're
 19 testifying here as a corporate designee, but I have
 20 a few questions for you.
 21 **A. Okay.**
 22 **Q.** Do you recall ever speaking to Ms. Grady?
 23 **A. No.**
 24 **Q.** Would you remember speaking to Ms. Grady if
 25 you did?

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29

1 **A. It would be in the notes.**
 2 **Q.** Ma'am, you didn't bring any notes here today,
 3 did you?
 4 **A. I did.**
 5 **Q.** Do you have the notes of the police officer?
 6 **A. I have the theft package --**
 7 **Q.** I'm asking --
 8 **A. -- with the notes.**
 9 **Q.** -- when the police officer called on 7/22 and
 10 let this young lady go, do you have notes of that
 11 conversation in your records?
 12 **A. No.**
 13 **Q.** No, you don't. Sometimes notes aren't taken,
 14 correct?
 15 **A. Correct.**
 16 **Q.** In this case you've heard the testimony of
 17 Joseph Jaussi, it was read in, correct?
 18 **A. Yes.**
 19 **Q.** He said the records were purged in regards to
 20 Ms. Grady. Do you remember that?
 21 **A. Yes.**
 22 **Q.** Do you dispute his testimony which was under
 23 oath and bound the Hertz Corporation?
 24 **A. Well, it's the definition --**
 25 **Q.** I would ask for a yes --

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1 **A. -- definition of purged.**

2 MR. EDELSTEIN: Objection, Your Honor.

3 He asked the question.

4 BY MR. MALOFIY:

5 **Q.** Do you dispute it, ma'am, yes or no, and then
6 you can explain?

7 MR. EDELSTEIN: Your Honor, he asked
8 the open-ended question.

9 THE COURT: He did. So that's
10 sustained. Rephrase the question. What you
11 just asked is fine.

12 BY MR. MALOFIY:

13 **Q.** Ma'am, do you dispute Joseph Jaussi's
14 testimony that the records were purged, yes or no?

15 **A. No. Can I give the definition of purged,**
16 **though?**

17 **Q.** I think it's subjective to a degree, but maybe
18 your counsel can follow up with you.

19 **A. Sure.**

20 **Q.** You see hundreds of packages every day,
21 correct, hundreds of theft packages?

22 **A. Yes.**

23 **Q.** And I think you were testifying that in the
24 months of -- in the months of July and the summer
25 months, it gets real busy?

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1 **A. Yes.**

2 **Q.** Real busy?

3 **A. During the summer months.**

4 **Q.** And I imagine when someone calls on the phone
5 and they're trying to get ahold of a representative,
6 then they get routed to another department, that
7 would happen, right?

8 **A. Right.**

9 **Q.** And then they would sit on the phone for a
10 long time and they get routed to another department
11 because you're very busy, right?

12 **A. We're busy, but when we have a theft that**
13 **comes through, it's routed to us. We have someone**
14 **available to take those calls.**

15 **Q.** You're supposed to have someone available,
16 correct?

17 **A. We do have someone available.**

18 **Q.** Okay.

19 **A. It's a theft package. It's our asset, we want**
20 **it back.**

21 **Q.** So your goal in this instance was to get your
22 asset back, correct?

23 **A. Correct.**

24 **Q.** On 7/22, you knew that your asset was no
25 longer with Ms. Grady, correct?

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1 **A. We didn't have it back.**

2 **Q.** I'm asking you, did you know, yes or no, that
3 your asset was no longer with Ms. Grady on 7/22?

4 **A. Somebody at Hertz did.**

5 **Q.** Right. Now, who at Hertz knew?

6 **A. I'm not sure, because the police officer**
7 **didn't tell me what phone number or who he spoke to.**

8 **Q.** Well, you mean the police officer -- you mean
9 there's no notes here today that indicate that,
10 correct?

11 **A. Correct.**

12 **Q.** You do what, about a hundred theft packages
13 per day; is that about right?

14 **A. Some days.**

15 **Q.** So in the course of you've been sitting here,
16 maybe 400, 500 theft packages went out, correct?

17 **A. Yes.**

18 **Q.** Basically, this is a mechanical process, you
19 pretty much just approve them?

20 **A. No.**

21 **Q.** No?

22 **A. No.**

23 **Q.** Isn't it sort of automated, or you actually do
24 a hundred theft packages a day that are this big? I
25 mean --

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1 **A. So every night that I left here, I went back**
2 **to my hotel and reviewed theft packages, page by**
3 **page by page.**

4 **Q.** You did?

5 **A. I did.**

6 **Q.** How many did you review since you've been
7 here?

8 **A. About 380.**

9 **Q.** I see. Now, let's be clear, you're here to
10 testify as to the policies and procedures of Hertz
11 Rental Car Corporation, correct?

12 **A. Yes.**

13 **Q.** And you're here also to discuss this policy
14 W7-02, correct?

15 **A. Yes.**

16 **Q.** Are you familiar with that policy?

17 **A. Yes.**

18 **Q.** And you're familiar with that policy because
19 that's a policy that you work with, correct?

20 **A. Yes.**

21 **Q.** And that's a policy which basically regulates
22 all the stealing off of Hertz' lot, correct?

23 **A. Yes.**

24 **Q.** Did you help draft that?

25 **A. No.**

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1 **Q.** You didn't. Who helped draft that document?
 2 **A.** **Corporate counsel.**
 3 **Q.** Lawyers?
 4 **A.** **Yes.**
 5 **Q.** I see. Are you technically an officer of the
 6 Hertz Corporation?
 7 **A.** **No.**
 8 **Q.** Are you just strictly an employee?
 9 **A.** **I am an employee.**
 10 **Q.** So no officers of the Hertz Corporation came
 11 to this court today, correct, or at any point during
 12 this trial, correct?
 13 **A.** **No.**
 14 **Q.** Any board members came?
 15 **A.** **No.**
 16 **MR. MALOFIY:** And can we pull up
 17 W7-02? Mr. Segal, do you know that number? Is
 18 it P-9? Thank you.
 19 **BY MR. MALOFIY:**
 20 **Q.** You're familiar with this document, correct?
 21 **A.** **Yes.**
 22 **MR. MALOFIY:** I want to go up here and
 23 I want to blow up -- right here, let's blow
 24 this up, Mr. Segal.
 25 **BY MR. MALOFIY:**

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1 **Q.** Mrs. Wilkerson, can you see that?
 2 **A.** **Yes.**
 3 **MR. MALOFIY:** Thank you, Mr. Segal.
 4 Can we elevate that?
 5 **BY MR. MALOFIY:**
 6 **Q.** "Executive summary, this worldwide procedure
 7 applies to the rent-a-car division of the Hertz
 8 Corporation and includes requirements for reporting
 9 vehicle thefts and conversions." Did I read that
 10 correctly?
 11 **A.** **Yes.**
 12 **Q.** It says: "All vehicle theft and conversions
 13 must be documented on a theft recovery vehicle
 14 report." Did I read that correctly?
 15 **A.** **Yes.**
 16 **Q.** Then it says: "All vehicle thefts from
 17 customers must also be documented on the vehicle
 18 theft from customer report." Did I read that
 19 correctly?
 20 **A.** **Yes.**
 21 **Q.** And here's what I'm getting at and where I'm
 22 going with this, it says near the last line:
 23 "Location, maintenance, area, country, head office,
 24 and OKC management must ensure compliance with this
 25 procedure." Do you see that?

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1 **A.** **Yes.**
 2 **Q.** Is it your job to ensure compliance with this
 3 procedure?
 4 **A.** **Yes.**
 5 **Q.** And you're the person in charge of 700,000
 6 cars to make sure as the regulator that these cars
 7 and these -- excuse me -- procedures are followed,
 8 correct?
 9 **A.** **Correct.**
 10 **Q.** Now, when it says "location," that means in
 11 this instance the Philadelphia location, correct?
 12 **A.** **Correct.**
 13 **Q.** Just to make this clear, this here says:
 14 "W7-02 RAC, reporting vehicle thefts and
 15 conversions, August 21st, 2009." Did I read that
 16 correctly?
 17 **A.** **Yes.**
 18 **Q.** That's the policy in effect at the time Ms.
 19 Grady was arrested and policy in effect at the time
 20 of 2013-2014, correct?
 21 **A.** **Yes.**
 22 **Q.** The purpose of this standard operating
 23 procedure, correct, was to provide requirements for
 24 reporting thefts, conversions, or the disappearance
 25 of Hertz vehicles, correct?

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1 **A.** **Correct.**
 2 **MR. MALOFIY:** Pull that back, Mr.
 3 Segal. Can we go to the next page? Page 3 --
 4 page 4. Excuse me. With the court's
 5 indulgence? Try page 5. There also.
 6 **BY MR. MALOFIY:**
 7 **Q.** All right. You're intimately familiar with
 8 this whole theft package correct -- excuse me, this
 9 whole theft procedure, correct?
 10 **A.** **Yes.**
 11 **Q.** You use it on a daily basis?
 12 **A.** **Yes.**
 13 **Q.** In fact, this is a procedure that you follow
 14 to make sure that innocent people aren't wrongfully
 15 arrested for accidental reporting to the police,
 16 correct?
 17 **A.** **Correct.**
 18 **Q.** And it's important these policies and
 19 procedures are followed by Hertz Corporation,
 20 correct?
 21 **A.** **Correct.**
 22 **Q.** And if Hertz doesn't follow this problem --
 23 this procedure, that would be a failure on the part
 24 of Hertz, correct?
 25 **A.** **Correct.**

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1 MR. MALOFIY: Now, I'd like to blow up
2 17 for the benefit of the jury.
3 BY MR. MALOFIY:
4 Q. "Corporate/country security manager
5 investigations, every theft conversion disappearance
6 must be promptly investigated by the
7 corporate/country security manager responsible for
8 the location" --

9 MR. MALOFIY: Can you highlight
10 "location," Mr. Segal?

11 BY MR. MALOFIY:

12 Q. -- "from which the related theft vehicle
13 report is filed." In this instance, the location
14 would be Philadelphia, correct?

15 A. **Correct.**

16 Q. Now, it goes on to say -- and I want to
17 highlight this, too, Mr. Segal -- "all employees are
18 required to cooperate fully with such an
19 investigation." Did I read that correctly?

20 A. **Yes.**

21 Q. Now, it also says there must be promptly
22 investigated. Do you see that?

23 A. **Yes.**

24 Q. Now, in this instance --

25 MR. EDELSTEIN: You sound like Darth
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1 Vader.

2 MR. MALOFIY: I do, really? Do I need
3 new batteries? I'm sorry.

4 Is it okay?

5 BY MR. MALOFIY:

6 Q. In this instance, you've heard the testimony
7 of Richard Livingston, correct?

8 A. **Yes.**

9 Q. And Richard Livingston is, I believe,
10 currently, the corporate security manager, not the
11 assistant security manager of Philadelphia, but the
12 corporate security manager of Philadelphia, correct?

13 A. **Yes.**

14 Q. You've worked with him many times, correct?

15 A. **Yes.**

16 Q. Now, Mr. Livingston testified under oath that
17 he does no investigation whatsoever at the local
18 level. Did you hear that?

19 A. **I heard that, but he does check, check to make**
20 **sure that the VIN is correct, check to make sure**
21 **that there's no movement, or check to make sure that**
22 **the car hasn't been returned.**

23 Q. I'm sorry. Do a typo check on the VIN. What
24 else?

25 A. **Make sure that there's no further movement on**

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1 **the vehicle.**

2 Q. Uh-huh.

3 A. **And then make sure that the car has not been**
4 **returned. He has to make sure the car has not been**
5 **returned.**

6 Q. Returned?

7 A. **Returned. By the renter.**

8 Q. How would he do that?

9 A. **He goes into the system and check.**

10 Q. What system, ma'am?

11 A. **His vehicle movement system.**

12 Q. Oh, I see. Well, if he didn't do that, that
13 would be a failure, correct?

14 A. **Yes.**

15 Q. And he would not be following Hertz' policies
16 and procedures, correct?

17 A. **Correct.**

18 Q. Now, let me go to Mr. Livingston's deposition
19 testimony which was read into the record. And I'm
20 going to go to page P8-54, top right-hand quadrant,
21 which is page 215.

22 MR. MALOFIY: Mr. Segal, I got some
23 psychedelic thing going on on my computer.
24 Okay. Thank you.

25 Now, if we could, for the benefit of
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1 Mrs. Wilkerson, could we blow up 10 to 16,
2 lines 10 through 16 on page 215?

3 BY MR. MALOFIY:

4 Q. Question was asked: "As a corporate security
5 manager for Hertz for this area or anyone working
6 with you or for you, would they have done any
7 independent investigation and what payments are made
8 with the car before filing a police report?

9 His answer: "No, not on my side of
10 the fence."

11 Should he have checked to see if any
12 additional payments were made on that car?

13 A. **Mr. Livingston didn't report this car stolen.**

14 Q. I'm just asking you, he said specifically,
15 ma'am, he's the manager of Philadelphia, right,
16 security manager?

17 A. **Correct.**

18 Q. And he still is the security manager, correct?

19 A. **Right, but he also --**

20 Q. Hold on. He was the very big guy.

21 MR. EDELSTEIN: She's answering the
22 question, Your Honor.

23 THE COURT: She was.

24 THE WITNESS: It's okay.

25 BY MR. MALOFIY:

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1 Q. I'm sorry. I stepped on your words. Go
 2 ahead.
 3 A. **Go ahead. What's the question?**
 4 Q. Mr. Livingston is the awfully big guy, he's
 5 like 7 feet tall, right?
 6 A. **Yes.**
 7 Q. He's the corporate security manager for Hertz
 8 Rental Car Corporation here in Philadelphia,
 9 correct?
 10 A. **Correct.**
 11 Q. Now, it says here that the question was asked
 12 of him or anyone working for him or working with
 13 him, if they did any check and his response was no,
 14 not on his side of the fence. Do you see that?
 15 A. **I do see that.**
 16 Q. Now, you just testified that he would have
 17 checked the computer system of some sort, right?
 18 A. **He should have checked the computer system.**
 19 Q. If he failed to check the computer system, he
 20 would have failed to follow the policies and
 21 procedures of Hertz which must be followed, correct,
 22 ma'am?
 23 A. **Correct. But he also in the thing that you**
 24 **read, testimony that you read, it said he didn't**
 25 **file police reports.**

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1 Q. Ma'am, Mr. Livingston is the head of a two-man
 2 department, correct?
 3 A. **Correct.**
 4 Q. Let's be clear. It's him and one other
 5 person, right?
 6 A. **Yes.**
 7 Q. And that one other person was Mr. Graeber,
 8 correct?
 9 A. **At the time, yes.**
 10 Q. And then Mr. Graeber was let go. Do you
 11 remember why?
 12 A. **Yes.**
 13 Q. He was let go why?
 14 A. **I'm not sure.**
 15 Q. He was let go, according to Mr. Livingston's
 16 testimony, because Hertz wanted to cut costs. Do
 17 you remember that?
 18 A. **No.**
 19 MR. MALOFIY: Well, let's pull it up.
 20 MR. EDELSTEIN: We'll stipulate that
 21 was the testimony, Judge.
 22 BY MR. MALOFIY:
 23 Q. Hertz --
 24 THE COURT: It's been stipulated to.
 25 All right.

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1 BY MR. MALOFIY:
 2 Q. Hertz Corporation wanted to cut the costs so
 3 they let Mr. Graeber go, correct?
 4 A. **If you say so, yes.**
 5 Q. And by doing so, they're basically cutting
 6 costs at the local investigation at the local level
 7 to prevent innocent people from being wrongfully
 8 accused of car theft, correct?
 9 MR. EDELSTEIN: Objection, Your Honor.
 10 THE COURT: Sustained.
 11 BY MR. MALOFIY:
 12 Q. Ma'am, does Hertz global -- excuse me, Hertz
 13 Corporation, are they able to do a local
 14 investigation on every case?
 15 A. **Well, that's the reason why we have Oklahoma**
 16 **City specialized in doing the investigation. We**
 17 **have specialized people that work for us and also**
 18 **that's why we hire the private investigator to go**
 19 **out and assist us and also get the repossession**
 20 **company involved, to show what investigation we need**
 21 **to do. We work hand-in-hand with both of those**
 22 **companies. We try to do our due diligence before we**
 23 **report a car stolen.**
 24 Q. How many theft reports have come out of
 25 Philadelphia?

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1 MR. EDELSTEIN: When?
 2 BY MR. MALOFIY:
 3 Q. After daily basis in 2013-2014, ma'am.
 4 A. **A lot.**
 5 Q. A lot?
 6 A. **Yes.**
 7 Q. And what would you say?
 8 A. **Maybe 2000.**
 9 Q. Do you know -- excuse me. Mr. Livingston
 10 testified that he's gone into court and handled
 11 about 400 of these and he's never done a local
 12 investigation to determine the truth and veracity of
 13 those theft packages?
 14 A. **No, I didn't know that.**
 15 Q. And that would be falling well below the
 16 standard of care even by Hertz' own policies and
 17 procedures?
 18 MR. EDELSTEIN: Objection to the
 19 leading conclusion.
 20 THE COURT: Sustained. You have to
 21 rephrase.
 22 MR. MALOFIY: I'll rephrase it. Thank
 23 you.
 24 BY MR. MALOFIY:
 25 Q. That would fall well below the policies and

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1 procedures of even Hertz Corporate policies,
2 correct?

3 **A. Yes.**

4 **Q.** Do you think it's acceptable for 400 cases to
5 go to court and no local investigation to be done
6 whatsoever?

7 MR. EDELSTEIN: Objection, Your Honor.

8 The testimony was that Mr. Livingston didn't
9 actually do it, not no investigation was done.

10 THE COURT: Overruled. I'll let her
11 answer.

12 THE WITNESS: Yeah. We have
13 investigated it. We investigate each overdue
14 renter. Each theft is investigated.

15 MR. MALOFIY: Ma'am, read back my
16 question for the witness, please. Sorry.

17 - - -

18 (Whereupon, the court reporter read
19 the record as requested.)

20 - - -

21 THE WITNESS: By Mr. Livingston?

22 BY MR. MALOFIY:

23 **Q.** By the two people in that office who handle
24 the 400 cases that went to court and no local
25 investigation was done, that's what I'm referring

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1 to, ma'am.

2 **A. There is some investigation being done.**

3 **Q.** Check for typos and the VIN number, correct?

4 **A. And movement.**

5 **Q.** On the system, right, on the computer system?

6 **A. Yes.**

7 **Q.** Let's go to that computer system right now.
8 Let's talk about that.

9 Now, you indicated that it was Mr.
10 Graeber who made the police report on behalf of
11 Hertz to Detective -- to Officer Ianoconne, he was
12 the one who gave the interview, correct?

13 **A. Correct.**

14 **Q.** And it wasn't Mr. Livingston?

15 **A. Correct.**

16 **Q.** Both those two people work in one office,
17 correct?

18 **A. Yes.**

19 **Q.** And Mr. Graeber answers to Mr. Livingston,
20 correct?

21 **A. Correct.**

22 **Q.** Now, let's go to combination 8 of P-3, which
23 is the interrogatory, the question to defendant and
24 the answer of defendant's. Can we pull that combo
25 up for the benefit of the jury and also for Ms.

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1 Wilkerson -- Mrs. Wilkerson, excuse me, ma'am.

2 It says here, 8, this was a question

3 posed to Hertz Corporation: "Identify the computer
4 systems that the Hertz employees identified in the
5 immediately preceding interrogatory consulted while
6 on the phone with the police on July 22nd, 2013, and
7 what information was on that system regarding Ms.
8 Grady."

9 The answer: "Objection. This
10 interrogatory assumes a computer system was
11 consulted with during Mr. Graeber's conversation
12 with Officer Brighter. Mr. Graeber" -- I'd like to
13 highlight this, Mr. Segal -- "Mr. Graeber did not
14 utilize any computer system while speaking with
15 Officer Brighter on July 22nd, 2013." Do you see
16 that, ma'am?

17 **A. Yes, I see it.**

18 **Q.** And these sworn interrogatories, where we
19 asked whether or not a computer system was used, the
20 sworn answers verified answers from Hertz
21 Corporation by Mr. Livingston was that no computer
22 system was used?

23 MR. EDELSTEIN: Objection, Your Honor.

24 BY MR. MALOFIY:

25 **Q.** Do you understand that?

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1 MR. EDELSTEIN: The question in the
2 interrogatory was what was used while on the
3 phone with the police. That's the question.

4 MR. MALOFIY: I'm asking a follow-up
5 question, not this specific question, but a
6 follow-up question.

7 THE WITNESS: So basically --

8 THE COURT: No, I have to rule on the
9 objection.

10 The objection at this time is
11 sustained only because you can't change what
12 the interrogatories are saying. If it's a
13 separate question, that's fine.

14 MR. MALOFIY: I'm asking a follow-up
15 question, a different question. I already
16 asked that question. Maybe the confusion is on
17 the screen. So we can block that out now.

18 Thank you.

19 BY MR. MALOFIY:

20 **Q.** Isn't it true that Mr. Graeber utilized no
21 computer system whatsoever in regards to before he
22 reported this to the police?

23 **A. No. It actually says "while speaking." So
24 while he was speaking to the detective, he wasn't on
25 the computer system. That's the verbiage in what**

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1 **you just read me.**

2 MR. MALOFIY: Let me be more specific
3 with the court's indulgence.

4 Let me move to 21, combo 21. Do you
5 have that, Mr. Segal?

6 BY MR. MALOFIY:

7 **Q.** You looked at the questions which we
8 propounded upon Hertz, which we served on Hertz and
9 the answers, correct?

10 **A. Yes.**

11 **Q.** And you saw that Mr. Livingston had signed
12 these under oath, correct?

13 **A. Yes.**

14 **Q.** We had asked of Hertz Corporation: "Describe
15 in detail all actions/steps taken and communications
16 the Hertz manager identified in the complaint as
17 filing the August 2013 police report regarding Kelly
18 Grady." That's Ken Graeber, correct?

19 **A. Yes.**

20 **Q.** So let's read this again: "Describe in detail
21 all actions/steps taken and communications the Hertz
22 manager" -- I'll insert Ken Graeber -- "took before
23 reporting the Chevy Yukon stolen on around July
24 22nd, 2013, including identifying all employees he
25 communicated with and the contents of the

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1 communication, identifying all employees he
2 communicated with and the contents of the
3 communication." I think that was twice. I
4 apologize if I read that twice. I think it was
5 written twice. "Identifying all computer systems he
6 consulted and the program names and reasons for
7 doing so."

8 MR. MALOFIY: Highlight this bottom
9 line, "identifying all computer systems he
10 consulted and the program names and reasons for
11 doing so."

12 BY MR. MALOFIY:

13 **Q.** The answer, there was an objection lodged.
14 And then it said: "The police report was not filed
15 by a Hertz manager in August 2013. Mr. Graeber
16 reviewed the rental contract, investigation
17 performed, and had communications with individuals
18 in Hertz' Vehicle Control Department in Oklahoma
19 City, Oklahoma. A theft package was put together
20 and reported to the airport police." Do you see
21 that?

22 **A. Yes.**

23 **Q.** Now, it doesn't identify all computer systems
24 he consulted and the program names and reason for
25 doing so, does it?

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1 **A. No, but he was on the phone with Hertz Vehicle**

2 **Control.**

3 **Q.** I'm just asking you, verified answer said that
4 that was produced in discovery.

5 **A. Okay.**

6 **Q.** Right, ma'am?

7 **A. Yes.**

8 **Q.** And even if he was on the phone, he didn't
9 consult any computer systems, right?

10 **A. Well, we're speaking about it over the phone.**

11 **Q.** But he personally did not consult any computer
12 systems, correct?

13 **A. No, he didn't put his fingers on the keyboard.**

14 **Q.** And then a day after this, he went to the
15 police and told them the only payment was 1805,
16 correct?

17 **A. In a deposit, yes.**

18 **Q.** Ma'am, I'm going to put this back up to you,
19 this document. Do you see that document?

20 **A. Yes.**

21 **Q.** Now, you say, oh, the 2445 was identified on a
22 document, right?

23 **A. Yes.**

24 **Q.** And you'd agree that that document was created
25 7/12/13, correct?

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1 **A. Yes.**

2 **Q.** And you agree the payment went through on
3 7/15, three days later, correct?

4 **A. Yes, correct.**

5 **Q.** And you'd agree with me that wasn't actually
6 the payment identified, it was what was owed,
7 correct?

8 **A. No.**

9 **Q.** Doesn't it indicate what was owed and not what
10 was paid on 7/12, ma'am?

11 **A. No.**

12 **Q.** What does it say?

13 **A. It says that we had to close the vehicle out
14 to 5/31/2013 because we didn't have anymore
15 authorization. It's on this form right here.**

16 **Q.** I'm sorry. Maybe my question wasn't clear. I
17 asked you a different question.

18 Isn't it true that it doesn't show
19 that the payment of 2445 was made on that document?

20 **A. Yeah, it shows it was --**

21 **Q.** It was owed?

22 **A. It was owed at the time.**

23 **Q.** And it was not paid, correct?

24 **A. Not on 7/12.**

25 **Q.** Right. And three days later it was paid,

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1 correct, ma'am?

2 **A. Not in full.**

3 **Q.** Ma'am, I'm asking you was 2445 paid, yes or

4 no?

5 **A. Yes.**

6 **Q.** And that information was never updated to the

7 police, correct?

8 **A. No.**

9 **Q.** It was not corrected, correct? It was not

10 updated to the police, correct?

11 **A. They had the information.**

12 **Q.** I'm asking you if the information that it was

13 paid was updated to the police, yes or no?

14 **A. The police actually have the theft package and**

15 **this was in the theft package.**

16 **Q.** Ma'am, you just identified that that is not a

17 payment for 2445, it's what is owed. Do you

18 understand the difference between --

19 **A. Yes.**

20 **Q.** -- money in your bank account --

21 **A. Yes.**

22 **Q.** -- and what is owed to you? It's the

23 difference between an asset and a liability, right?

24 **A. Yes.**

25 **Q.** Okay. Understand the difference?

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1 **A. Yes.**

2 **Q.** You deal with this every day?

3 **A. Yes.**

4 **Q.** So let's be clear. The police didn't know

5 2445 was paid before they signed an affidavit of

6 probable cause allowing Ms. Grady to be arrested,

7 correct? Correct, ma'am?

8 **A. Correct.**

9 MR. MALOFIY: No further questions.

10 THE COURT: Any redirect?

11 MR. EDELSTEIN: Just two. I promise.

12 - - -

13 REDIRECT EXAMINATION

14 - - -

15 BY MR. EDELSTEIN:

16 **Q.** Mr. Graeber, the assistant corporate manager

17 who worked for Mr. Livingston --

18 **A. Yes.**

19 **Q.** -- he did the investigation?

20 **A. Yes.**

21 **Q.** And he would have -- in an effort to find car

22 movement, how would he have determined that, meaning

23 was the car back in Hertz' possession?

24 **A. Yes, so he would have gone into a specialized**

25 **system that shows all cars that have been checked in**

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1 **or have an idle sighting at the location to prove**

2 **that the car was back in Hertz' possession.**

3 **Q.** And, again, when did the car come back to your

4 possession?

5 **A. September 11th, 2013.**

6 MR. EDELSTEIN: Thank you. That's all

7 I have.

8 THE COURT: Anything else, Counsel?

9 MR. MALOFIY: No. One second, Your

10 Honor. Court's indulgence.

11 (Pause.)

12 - - -

13 RECROSS-EXAMINATION

14 - - -

15 BY MR. MALOFIY:

16 **Q.** Help my confusion. Did you actually fly in

17 from Florida?

18 **A. I -- yes.**

19 **Q.** You flew in from Florida to here?

20 **A. I took a special route, yes.**

21 MR. MALOFIY: No further questions.

22 THE COURT: Anything else?

23 MR. EDELSTEIN: No, Your Honor.

24 THE COURT: Thank you, ma'am. Watch

25 your step.

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1 - - -

2 (Witness excused.)

3 - - -

4 THE COURT: Who's your next witness?

5 MR. EDELSTEIN: Mr. Cocklin.

6 THE COURT: That's the expert.

7 Step up.

8 THE COURT CRIER: State your full

9 name.

10 THE WITNESS: John Cocklin,

11 C-O-C-K-L-I-N.

12 - - -

13 ...JOHN COCKLIN, having been duly

14 sworn/affirmed, was examined and testified as

15 follows:

16 - - -

17 THE COURT: Your witness.

18 - - -

19 DIRECT EXAMINATION ON VOIR DIRE

20 - - -

21 BY MR. EDELSTEIN:

22 **Q.** Good afternoon, Mr. Cocklin.

23 **A. Good afternoon.**

24 **Q.** How are you today?

25 **A. Okay.**

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